

REMARKS

The Office has maintained the rejection of claims 1 and 4-7 under 35 U.S.C. 103(a) as being unpatentable over JP 2002-360593 ("Kiyoshige") in view of Grasso (U.S. Patent No. 6,375,651) that was made in the first Action.

In the response filed December 19, 2005, to the first Action, claim 1 was amended to recite that graft grasping portion of the graft grasping device of the invention is in the shape of a cylindrical tube having a lumen and a slit formed in a longitudinal direction of the tube. Applicants argued that the circular hollow tube of Kiyoshige is a ring and cannot properly be characterized as a cylindrical tube.

The Office has taken the position in the present Action that the amendment to claim 1 does not distinguish over the device of Kiyoshige because the device of Kiyoshige meets the definition of a cylinder.

Applicants respectfully submit that the Office's position is not correct. The short cylindrical tube sketched in the Action has two closed planar curves and a parallel straight line, but the short cylindrical tube sketched in the Action is not representative of the device, itself, of Kiyoshige. Using the definition of a cylinder provided by the Office, a straight line moving parallel to

a fixed straight line and intersecting the outer surface of the circular tube of Kiyoshige will intersect only one fixed planar curved surface and, therefore, will not trace a "surface". Therefore, the device is not a cylinder.

Moreover, the device of Kiyoshige, as interpreted by the Office, cannot be modified such that the "recessed portion" is covered with a sheet having a plurality of pores, and a mesh sheet is provided in a space defined between the recessed portion and the sheet. The Office has identified a port of the device of Kiyoshige as being a "recessed portion". If the port is covered with a sheet having a plurality of pores, there is no space defined "between the recessed portion and the sheet" as required by the claims of the application and, thus, there is no space "between the recessed portion and the sheet" in which to provide a mesh.

Additionally, the art does not provide a motive to a person of ordinary skill in the art to modify the device of Kiyoshige using the teachings of Grasso as proposed by the Office.

Grasso is identified in the Action as teaching a device with a common structure for providing a barrier. The Office alleges that it would have been obvious to one of a ordinary skill in the art to modify the invention of Kiyoshige with the sheets of Grasso. However, the mesh in the distal end conduit of the suction conduit

of Grasso helps to prevent clogging of the suction conduit. With the laser lithotripsy device of Grasso, calculi, deposits and tissues in body lumens are destroyed by a laser and pieces of the destroyed tissue are removed by suction. Without the mesh sheet, the pieces may cause the clogging of the suction conduit.

However, in Kiyoshige the ports, i.e., the "recessed portions" identified in the Office are provided for grasping a graft. There is no danger of calculi, deposits, pieces of body tissue or the like entering the ports and clogging the suction tube.

For each of the reasons explained above, the 35 U.S.C. § 103(a) rejection is improper and should be removed.

Claim 2, indicated in the Action to be allowable, if rewritten in independent form, has been rewritten in independent form. Claim 3, also indicated in the Action to be allowable, if rewritten in independent form, depends on claim 2 and, therefore, is allowable without amendment.

The foregoing is believed to be a complete and proper response to the Office Action dated March 16, 2006, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

PATENT APPLN. NO. 10/695,460  
RESPONSE UNDER 37 C.F.R. § 1.116

**PATENT  
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In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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